SIXTH DISTRICT COURT OF APPEAL
STATE OF FLORIDA

Case No. 6D2024-1193
Lower Tribunal No. 23-CF-014519

GEORGE S. BROUGHTON, IV,

Appellant,

v.

STATE OF FLORIDA,

Appellee.

Appeal from the Circuit Court for Lee County.
Nicholas Thompson, Judge.

November 13, 2026

SMITH, J.

George S. Broughton, IV, appeals the denial of his motion to suppress after entering a no contest plea to reckless driving, possession of cocaine, and possession of ammunition by a convicted felon. Broughton argues that the trial court erred in denying his motion to suppress because law enforcement lacked sufficient probable cause to arrest him for reckless driving, and the State failed to present evidence that law enforcement followed standardized criteria when conducting the inventory search of his vehicle. We find no merit in Broughton's reckless driving argument,

but we more fully address whether the State conducted a lawful inventory search of Broughton's vehicle.

Specifically, we are called today to address whether testimony was sufficient to establish that an inventory search of a vehicle—which did not involve a closed container—was done in accordance with existing law enforcement policy. Officer testimony at the suppression hearing provided that: (i) impoundment occurs when a vehicle owner is arrested and no other registered owner is present to take the vehicle; and (ii) an inventory search is conducted of impounded vehicles for the safety of the belongings inside the vehicle. While basic, this testimony satisfies the existing United States Supreme Court standard for reasonableness of warrantless inventory searches.

I.

After arresting Broughton for reckless driving, Fort Myers police officers conducted a search of the vehicle prior to it being towed. The search turned up cocaine, a gun holster, and two handgun magazines. Broughton—a convicted felon—ultimately pled no-contest to reckless driving, possession of cocaine, and possession of ammunition by a convicted felon, while reserving the right to challenge the trial court's denial of his motion to suppress.

The first officer testified at the suppression hearing as follows:

> Q. Once he was placed under arrest did you make a decision to tow the vehicle?
>
> A. Yes.

Q. And what -- why did you make that decision?

A. Because the registered owner of the vehicle was placed under arrest.

Q. And is there a policy about turning vehicles over to third parties?

A. There's no exception to that. It is -- we're not allowed to turn the vehicle over to anybody other than the registered owner of the vehicle.

Q. And so with towing a vehicle do you conduct a search?

A. We conduct an inventory search of the vehicle, yes.

Q. And why do you do that?

A. For the safety of the belongings of the items and property inside of the vehicle.

The second testifying officer further confirmed the existence and details of the impoundment policy:

Q. Is it policy for the Fort Myers Police Department for towing a car when a person is under arrest?

A: Yes.

Q. And is it also policy not to release the vehicle to any third parties?

A. That is correct.

After the close of the evidence at the suppression hearing, Broughton's counsel conceded that there was at least some testimony concerning the existence of an inventory search policy, but he asserted the statements were "conclusory" and that there was no actual copy of the policy introduced:

> And, Your Honor, most importantly, we have not received any evidence about Fort Myers Police Department's [inventory search] policy. We have heard testimony saying ["]our policy says.["]
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> * * *
>
> We still have not heard -- we have not received any evidence, beside a conclusory statement from the officer, that it was in accordance with their own policy. These policies, they can bring them. It is something that can be requested by FOIA. The policies are available, and we have not seen evidence of it.

Broughton's counsel contended that because the State failed to introduce evidence of Fort Myers Police Department's standardized operating procedure governing inventory searches, the search was unlawful. The trial court denied Broughton's motion to suppress, noting that the totality of the circumstances supported the legality of the search.

II.

We begin our analysis with the premise that a warrantless search is per se unreasonable under the Fourth Amendment subject to certain well-delineated exceptions. *See Smallwood v. State*, 113 So. 3d 724, 729–30 (Fla. 2013). The exception relied upon by the State is the inventory search exception. "The inventory search exception, unlike all other theories under which an automobile may be searched, has no connection with any criminal investigation." *Caplan v. State*, 531 So. 2d 88, 90 (Fla. 1988). "It has a caretaking function and is conducted in order to list the items left in the car to protect the owner's property, protect the police against claims or disputes over lost or stolen property, and to protect the police from

potential danger." *Id*. (citing *South Dakota v. Opperman,* 428 U.S. 364 (1976)). Law enforcement does not conduct inventory searches "to discover evidence of a crime or prevent wrongdoing." *Id*. Accordingly, "concerns pertaining to probable cause or warrant requirements are not implicated." *Id*. Because inventory searches are lawful, anything found within a search's legitimate confines is admissible as evidence. *Id*. (citing *Illinois v. Andraes*, 463 U.S. 765 (1983)). But an inventory search "cannot be used as mere pretext or subterfuge for a criminal investigation." *Id*.

When law enforcement conducts an inventory search, the search "must be performed in accordance with the governmental entity's standardized operating procedure." *See Tyler v. State*, 185 So. 3d 659, 662 (Fla. 4th DCA 2016) (quoting *Williams v. State*, 903 So. 2d 974, 976–77 (Fla. 4th DCA 2005)). The State has the burden of putting on evidence of that standard before the court. *Ross v. State*, 319 So. 3d 807, 812 (Fla. 2d DCA 2021).

Our Fourth Amendment analysis hinges on guidance from the United States Supreme Court. *See* Art. I, § 12, Fla. Const. ("This right shall be construed in conformity with the 4th Amendment to the United States Constitution, as interpreted by the United States Supreme Court."). United States Supreme Court cases addressing inventory searches do not mandate a particular quality or quantity of evidence needed to establish a law enforcement agency's "policies" or "procedures" for inventory searches.

In *South Dakota v. Opperman*, 428 U.S. 364 (1976), the defendant's vehicle was impounded due to multiple parking tickets, and officers discovered contraband in the glove compartment during a post-impoundment inventory search. *Id*. at 365. The Court conducted a detailed review of national practices of law enforcement involving inventory searches in addition to reviewing several state and federal decisions. The Court observed that it is "routine practice" for police to inventory vehicle contents after impoundment and that said inventories are generally sustained as "reasonable police intrusions":

> When vehicles are impounded, local police departments generally follow a routine practice of securing and inventorying the automobiles' contents. These procedures developed in response to three distinct needs: the protection of the owner's property while it remains in police custody, *United States v. Mitchell*, 458 F.2d 960, 961 (CA9 1972); the protection of the police against claims or disputes over lost or stolen property, *United States v. Kelehar*, 470 F.2d 176, 178 (CA5 1972); and the protection of the police from potential danger, *Cooper v. California*, *supra*, 386 U.S., at 61—62, 87 S.Ct., at 790. The practice has been viewed as essential to respond to incidents of theft or vandalism. *See Cabbler v. Commonwealth*, 212 Va. 520, 522, 184 S.E.2d 781, 782 (1971), cert. denied, 405 U.S. 1073, 92 S.Ct. 1501, 31 L.Ed.2d 807 (1972); *Warrix v. State*, 50 Wis.2d 368, 376, 184 N.W.2d 189, 194 (1971). In addition, police frequently attempt to determine whether a vehicle has been stolen and thereafter abandoned.
>
> These caretaking procedures have almost uniformly been upheld by the state courts, which by virtue of the localized nature of traffic regulation have had considerable occasion to deal with the issue. Applying the Fourth Amendment standard of "reasonableness," the state courts have overwhelmingly concluded that, even if an inventory is characterized as a "search," the intrusion is constitutionally permissible. *See*, *e.g.*, *City of St. Paul v. Myles*, 298 Minn. 298, 300-301, 218 N.W.2d 697, 699 (1974); *State v. Tully*, 166 Conn. 126, 136, 348 A.2d 603, 609 (1974); *People v. Trusty*, 183 Colo. 291, 292-297, 516 P.2d 423, 425-426 (1973); *People v. Sullivan*, 29 N.Y.2d 69, 73, 323 N.Y.S.2d 945,

> 948, 272 N.E.2d 464, 466 (1971); *Cabbler v. Commonwealth*, *supra*; *Warrix v. State*, *supra*; *State v. Wallen*, 185 Neb. 44, 173 N.W.2d 372, cert. denied, 399 U.S. 912, 90 S.Ct. 2211, 26 L.Ed.2d 568 (1970); *State v. Criscola*, 21 Utah 2d 272, 444 P.2d 517 (1968); *State v. Montague*, 73 Wash.2d 381, 438 P.2d 571 (1968); *People v. Clark*, 32 Ill.App.3d 898, 336 N.E.2d 892 (1975); *State v. Achter*, 512 S.W.2d 894 (Mo.Ct.App.1974); *Bennett v. State*, 507 P.2d 1252 (Okl.Cr.App.1973); *People v. Willis*, 46 Mich.App. 436, 208 N.W.2d 204 (1973); *State v. All*, 17 N.C.App. 284, 193 S.E.2d 770, cert. denied, 414 U.S. 866, 94 S.Ct. 51, 38 L.Ed.2d 85 (1973); *Godbee v. State*, 224 So.2d 441 (Fla.Dist.Ct.App.1969). Even the seminal state decision relied on by the South Dakota Supreme Court in reaching the contrary result, *Mozzetti v. Superior Court*, 4 Cal.3d 699, 94 Cal.Rptr. 412, 484 P.2d 84 (1971), expressly approved police caretaking activities resulting in the securing of property within the officer's plain view.
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> The majority of the Federal Courts of Appeals have likewise sustained inventory procedures as reasonable police intrusions. As Judge Wisdom has observed:
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> "[W]hen the police take custody of any sort of container [such as] an automobile . . . it is reasonable to search the container to itemize the property to be held by the police. [This reflects] the underlying principle that the fourth amendment proscribes only *unreasonable* searches." *United States v. Gravitt*, 484 F.2d 375, 378 (CA5 1973), cert. denied, 414 U.S. 1135, 94 S.Ct. 879, 38 L.Ed.2d 761 (1974) (emphasis in original).

428 U.S. 364, 369–71 (1976) (footnotes omitted).

To be clear, the evidence of the existing procedure in *Opperman* was only that the officer was "using a standard inventory form pursuant to standard police procedures." *Id.* at 366. The prosecution put on no further evidence of this standard operating procedure. *Id.* Cases centrally relied upon by the *Opperman* Court similarly describe little, if any, particulars of the underlying procedure which the officers followed other than to simply say procedure was followed. *See, e.g., Cooper*

v. California, 386 U.S. 58, 60 (1967); *Cady v. Dombrowski*, 413 U.S. 433, 437 (1973); *Harris v. United States*, 390 U.S. 234, 235 (1968).

Post-*Opperman* Supreme Court cases have not required that the government present proof of police standards or policy beyond mere evidence of their existence. In *Illinois v. Lafayette*, which involved an inventory search of a shoulder bag, the Court found it sufficient when the government presented evidence that "it was standard procedure to search 'everything' on a person arrested." 462 U.S. 640, 642 (1983). In *Colorado v. Bertine*, the Court analyzed an inventory search of a closed container in the defendant's van, finding it sufficient when the government put on evidence that local police procedures required a detailed search of an arrestee's vehicle, which included the opening of any closed containers. 479 U.S. 367, 369–70 (1987). Furthermore, *Florida v. Wells*, one of the first reversals of an inventory search post-*Opperman*, addressed the search of a closed container in an arrestee's car. 495 U.S. 1 (1990). The *Wells* Court noted that the State of Florida presented *no* testimony in the lower court about the Florida Highway Patrol's search policy relative to *opening closed containers*, concluding that the "search was not sufficiently regulated to satisfy the Fourth Amendment." *Id.* at 4–5. Though *Wells* applies particularly to whether officers may search a closed container when a standard operating procedure is silent on the matter, *Wells* again stands for the principle that there must be *some* evidence establishing the underlying search

inventory search policy. *Id.* However, there is no discussion in *Wells* as to quantity or quality of this evidence beyond the basic minimum that a policy exists.

In *State v. Smith*, 529 So. 2d 1226 (Fla. 3d DCA 1988), law enforcement conducted an inventory search of an impounded car prior to returning it to the rental company. Testimony supporting the inventory search was as follows:

> Q When [faced] with a rental vehicle that's unattended by an unauthorized driver, what procedure would you follow if it was improperly parked?
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> * * *
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> A With these rental vehicles, what we usually do is call the rental company and advise them that, you know, we have their vehicle and would they like to come get it. I've even done it with people that I've stopped that are driving a rental vehicle that are not authorized on the contract to be driving the car. I found that the rental companies are actually pleased that you call them. I guess they are afraid of their cars being damaged or destroyed or whatever. So you call them and they come get it.
>
> Q Is an inventory done on a rented vehicle?
>
> A Correct.

Id. at 1230.

Notably, as in our case, the State in *Smith* did not present a hard copy of the police operating procedures and the testifying officers never quoted or cited any particular sections of the police operating procedures. The Third District opined that this testimony sufficiently established a standard police procedure supporting the inventory search: "The testimony . . . establishes that it is standard police procedure

to conduct an inventory before contacting a rental car company to pick up its vehicle." *Id.*

Similar to *Smith*, in *Rolling v. State*, 695 So. 2d 278 (Fla. 1997)—involving an inventory search of a tote bag—the Florida Supreme Court found the inventory search met the standard of *Opperman*, noting that it was a "routine inventory" and "reasonable in light of the circumstances." *Id.* at 294. The *Rolling* Court elucidated no further details of the policy.

Broughton's reliance upon *Beezley v. State*, 863 So. 2d 386 (Fla. 2d DCA 2003), and *Leary v. State*, 880 So. 2d 776 (Fla. 5th DCA 2004), is misplaced. In both *Beezley* and *Leary*, there was *no evidence* admitted relative to the respective law enforcement policies. *See* 863 So. 2d at 388 ("The State presented *no evidence* of such standardized criteria[.]" (emphasis added)); 880 So. 2d at 778 (holding that the inventory search was unjustified when the State presented no testimony regarding whether it was standard operating procedure for a vehicle to be towed after a minor offense).

While not controlling, it is both telling and persuasive that multiple federal circuits addressing this issue have found not only that officer testimony alone is sufficient to establish a policy but have further held that the law enforcement policy need not *be* in writing. *See United States v. Thompson*, 29 F.3d 62, 65 (2d Cir. 1994) ("The existence of such a valid procedure may be proven by reference to either written rules and regulations, or testimony regarding standard practices.") (internal

citations omitted); *United States v. Williams*, 930 F.3d 44, 54 (2d Cir. 2019) ("A police department's standardized procedures may be established at trial by written rules and regulations or by testimony regarding the department's standard practices."); *United States v. Villarreal*, 161 F.4th 364, 368 (5th Cir. 2025) ("A department's policy need not be written, and an officer's 'unrebutted testimony is sufficient to establish that he acted in accordance' with the policy."); *United States v. Smith*, 510 F.3d 641, 651 (6th Cir. 2007) ("Whether a police department maintains a written [inventory] policy is not determinative, where testimony establishes the existence and contours of the policy." (quoting *United States v. Tackett*, 486 F.3d 230, 233 (6th Cir. 2007))); *United States v. Lowe*, 9 F.3d 43, 46 (8th Cir. 1993) (rejecting argument that government was required to introduce police department's written inventory search policy); *United States v. Mancero-Lodono,* 912 F.2d 373, 375 (9th Cir. 1990) ("Such [law enforcement inventory] procedures need not be written, however.").

III.

As defense counsel properly conceded at the suppression hearing, testimony established the existence of both an impoundment and inventory policy. Officer testimony established that it is mandatory to tow a vehicle if a registered owner is not available to receive the vehicle after the driver is arrested. Once a vehicle is towed, an inventory search is conducted "for the safety of the belongings of the items and property inside of the vehicle." While this testimony is basic, it is sufficient to

establish both the existence of an inventory search policy and that the policy was followed, thus meeting the standard presented by *Opperman* and its progeny as well as Florida cases applying the same. Furthermore, as discussed above, there was no requirement that the State present evidence of law enforcement's written policy (or that the policy be in writing at all). For these reasons, we affirm.

AFFIRMED.

TRAVER, C.J., and WOZNIAK, J., concur.

Blair Allen, Public Defender, and William L. Sharwell, Assistant Public Defender, Bartow, for Appellant.

James Uthmeier, Attorney General, Tallahassee, and Katherine Coombs Cline, Senior Assistant Attorney General, Tampa, for Appellee.

NOT FINAL UNTIL TIME EXPIRES TO FILE MOTION FOR REHEARING AND DISPOSITION THEREOF IF TIMELY FILED